



# Public Employees for Environmental Responsibility

962 Wayne Avenue, Suite 610 • Silver Spring, MD 20910

Phone: (202) 265-PEER • Fax: (202) 265-4192

Email: [info@peer.org](mailto:info@peer.org) • Web: <http://www.peer.org>

September 6, 2016

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

## **RE: FOIA Request**

### **Via U.S. Mail & FOIA-Online**

Dear FOIA Officer:

The 2016 Environmental Protection Agency (EPA) Draft Protective Action Guide for Drinking Water after a Radiological Incident proposed levels for radioactivity in drinking water, including a table of concentrations (“Derived Response Levels” or DRLs) for 110 different radionuclides. Under the Safe Drinking Water Act, EPA has long set Maximum Contaminant Levels (MCLs) for an even larger set of radionuclides.

Yet this draft Protective Action Guide (PAG) document displayed DRLs for only three or four radionuclides (cesium-137, strontium-90/yttrium-90, and iodine-131) and only for the no-decay assumption.

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests the following:

1. All documents containing DRLs, for both the decay and no-decay assumptions for radionuclides covered or affected by this proposed PAG but not disclosed in the drinking water PAG issued for public comment;
2. All documents comparing numerical DRL concentrations associated with this proposed PAG, for the decay and/or no-decay assumptions, to concentrations from the Safe Drinking Water Act MCLs and/or with concentrations associated with  $1 \times 10^{-4}$  lifetime risk; and
3. The decision documents reflecting the rationale for not including the information described in Items 1 and 2 above in the draft drinking water PAG issued for public

comment or otherwise providing the public access to that information during the comment period so as to inform public comment about the impacts of this proposed PAG.

In a January 21, 2009 memo, President Barack Obama declared the following policy for the Executive Branch:

“The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve.”

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

*1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.*

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees.

*2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.*

The requested records ask for specifics about the impacts of a major public health proposal by EPA. The material would document the amount and type of radiation exposure to which the general public may be subjected following a nuclear release. As such, it is the most meaningful information on this important topic available.

In addition, the public will come to understand the agency decision to shield this information from public scrutiny.

*3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.*

The requested information concerns the specific effects flowing from official guidance for safeguarding public health in the event of a nuclear incident. Thus, this request concerns whether and in what manner EPA is meeting its mission of protecting the environment and public health with respect to radiation releases.

The general public has a keen interest in any factor bearing on protection of public health in the

event of an emergency. In addition, as this request concerns radiation exposure, the public has an acute and direct interest in learning what radiation exposure levels in drinking water will be allowed in such circumstances.

In addition, the public has a great interest in official transparency. Thus, it will greatly contribute to public understanding to learn why EPA decided that key information about public health impacts should be hidden from the public.

One indication of this broad interest is the more than 66,000 public comments this proposed PAG has elicited.

PEER intends to provide the requested information to the general public through —

- ☐ Release to the news media;
- ☐ Posting on PEER's web page which draws between 1,000 and 10,000 viewers per day; and
- ☐ Publication in PEER's newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

PEER has a long track record of attracting media and public attention to the internal workings of federal agencies, including EPA. Moreover, EPA's own public statements appears to concede the wide public interest in this matter.

*4. The disclosure must contribute "significantly" to public understanding of government operations or activities.*

This information should shed some direct light on 1) the transparency of the EPA decision-making process on matters of public health protection; and 2) the specific impacts of this proposed PAG on public health in the event of a nuclear incident.

We believe these records will cast direct sunlight on the quality of agency decision-making and the integrity of its management.

*5. The extent to which disclosure will serve the requestor's commercial interest.*

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

*6. The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.*

As stated above, disclosure is in not connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Jeff Ruch  
Executive Director



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September 8, 2016

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

## **RE: FOIA Request**

### **Via U.S. Mail & FOIA-Online**

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning its promulgation of updated Protective Action Guides (PAGs) for radiation protection decisions following accidental or intentional releases which were issued in the Federal Register by the U.S. Environmental Protection Agency (EPA) for public comment on June 10, 2016. Specifically, we request the following:

- ☐ All comments or communications, whether formal or informal, to and/or from state or local government officials or any other public agency officials, including federal officials, including but not limited to, communications to and from the Office of Management and Budget, concerning the development of or otherwise about these updated EPA PAGs;
- ☐ All comments or communications, whether formal or informal, to and/or from individuals or representatives of private corporations or trade associations concerning the development of or otherwise about these updated EPA PAGs; and
- ☐ All internal communications, including e-mails, meeting notes and other records, from EPA staff members both inside and outside the Office of Radiation and Indoor Air concerning the development of or otherwise about these updated EPA PAGs.

The requested materials are limited to the time period of June 11, 2009 to the present. Nor are we requesting any communications posted on [regulations.gov](http://www.regulations.gov) in regard to the PAGs.

In a January 21, 2009 memo, President Barack Obama declared the following policy for the Executive Branch:

“The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.”

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

*1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.*

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees.

*2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.*

The requested material consists of the records documenting comments from both inside and outside EPA on a matter of enormous public health consequence and some controversy. As such, the requested records are the most meaningful documents that could be requested on the topic of whether EPA is acting to protect public health and to answer concerns by experts inside the agency.

The requested documents would help the public understand EPA’s decision-making process on this matter revealing the internal and external input that was considered in promulgating the revised PAGs. Moreover, the response to this request may provide important evidence of overlooked or underestimated problems that EPA has chosen to ignore.

*3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.*

The requested information concerns the depth of environmental planning and consideration of alternatives that EPA has undertaken in preparing an important official guidance for

safeguarding public health in the event of a nuclear incident. Thus, this request concerns whether EPA is meeting its mission of protecting the environment and public health with respect to radiation releases.

The general public has a keen interest in any factor bearing on emergency preparedness and protection of public health in the event of an emergency. In addition, as the underlying subject matter of this request concerns radiation exposure, the public has an acute interest in learning how acceptable public exposure levels in drinking water, food and soil are determined and what factors were considered – or not considered.

In addition, EPA also considers this information is of interest to the general public, as indicated by its request for public comments and by public statements to the effect that the PAGs are “an important science-based guideline that addresses safe levels for radiation exposure.”

PEER intends to provide the requested information to the general public through —

- ☐ Release to the news media;
- ☐ Posting on PEER’s web page which draws between 1,000 and 10,000 viewers per day; and
- ☐ Publication in PEER’s newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

PEER has a long track record of attracting media and public attention to the internal records of federal agencies, especially EPA. In addition, EPA’s revisions of its PAGs have already drawn considerable media attention and public comment. Finally, EPA granted our fee waiver request for this same request PEER filed in 2009.

*4. The disclosure must contribute “significantly” to public understanding of government operations or activities.*

The nature of the information should shed some direct light on 1) the transparency and inclusiveness of the EPA decision-making process on matters of public health protection; 2) the rigor of scientific reviews which EPA employs in this process; and 3) the assurances that the public will have in the event of a nuclear incident that its health will not be jeopardized by faulty guidance.

In addition, the requested materials will reflect whether divergent scientific opinions are being respected within EPA and whether genuine scientific dialogue is encouraged or is suppressed.

Finally, we believe these records will provide more detail and cast direct sunlight on the quality of agency decision-making and the competence of its management.

*5. The extent to which disclosure will serve the requestor’s commercial interest.*

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation’s resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is

designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

*6. The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.*

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Jeff Ruch  
Executive Director





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September 14, 2016

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

## **RE: FOIA Request**

### **Via U.S. Mail & FOIA-Online**

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning its promulgation of updated Protective Action Guides (PAGs) for radiation protection decisions following accidental or intentional releases unrelated to the PAG on drinking water which were issued in the Federal Register by the U.S. Environmental Protection Agency (EPA) for public comment on June 10, 2016 (these latter materials are the subject of a separate, pending FOIA request). Specifically, we request the following:

- ☐ All comments or communications, whether formal or informal, to and/or from state or local government officials or any other public agency officials, including federal officials, including but not limited to, communications to and from the Office of Management and Budget, concerning the development of or otherwise about these updated EPA PAGs;
- ☐ All comments or communications, whether formal or informal, to and/or from individuals or representatives of private corporations or trade associations concerning the development of or otherwise about these updated EPA PAGs; and
- ☐ All internal communications, including e-mails, meeting notes and other records, from EPA staff members both inside and outside the Office of Radiation and Indoor Air concerning the development of or otherwise about these updated EPA PAGs.

The requested materials are limited to the time period of June 11, 2009 to the present. We are

not requesting any communications posted on regulations.gov in regard to the PAGs.

In a January 21, 2009 memo, President Barack Obama declared the following policy for the Executive Branch:

“The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.”

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

*1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.*

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees.

*2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.*

The requested material consists of the records documenting comments from both inside and outside EPA on a matter of enormous public health consequence and some controversy. As such, the requested records are the most meaningful documents that could be requested on the topic of whether EPA is acting to protect public health and to answer concerns by experts inside the agency.

The requested documents would help the public understand EPA’s decision-making process on this matter revealing the internal and external input that was considered in promulgating the revised PAGs. Moreover, the response to this request may provide important evidence of overlooked or underestimated problems that EPA has chosen to ignore.

*3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.*

The requested information concerns the depth of environmental planning and consideration of

alternatives that EPA has undertaken in preparing an important official guidance for safeguarding public health in the event of a nuclear incident. Thus, this request concerns whether EPA is meeting its mission of protecting the environment and public health with respect to radiation releases.

The general public has a keen interest in any factor bearing on emergency preparedness and protection of public health in the event of an emergency. In addition, as the underlying subject matter of this request concerns radiation exposure, the public has an acute interest in learning how acceptable public exposure levels in food and soil are determined and what factors were considered – or not considered.

In addition, EPA also considers this information is of interest to the general public, as indicated by its request for public comments and by public statements to the effect that the PAGs are “an important science-based guideline that addresses safe levels for radiation exposure.”

PEER intends to provide the requested information to the general public through —

- ☐ Release to the news media;
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- ☐ Publication in PEER’s newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

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*4. The disclosure must contribute “significantly” to public understanding of government operations or activities.*

The nature of the information should shed some direct light on 1) the transparency and inclusiveness of the EPA decision-making process on matters of public health protection; 2) the rigor of scientific reviews which EPA employs in this process; and 3) the assurances that the public will have in the event of a nuclear incident that its health will not be jeopardized by faulty guidance.

In addition, the requested materials will reflect whether divergent scientific opinions are being respected within EPA and whether genuine scientific dialogue is encouraged or is suppressed.

Finally, we believe these records will provide more detail and cast direct sunlight on the quality of agency decision-making and the competence of its management.

*5. The extent to which disclosure will serve the requestor’s commercial interest.*

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation’s resources and with supporting professional

integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

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Cordially,

Jeff Ruch  
Executive Director



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November 21, 2016

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

## **RE: FOIA Request**

### **Via U.S. Mail & FOIA-Online**

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests recently created records concerning the U.S. Environmental Protection Agency's (EPA) updated Protective Action Guides (PAGs) for radiation protection decisions following accidental or intentional releases. Specifically, we request the following:

- ☐ All comments or communications, whether formal or informal, to and/or from state or local government officials or any other public agency officials, including federal officials, including but not limited to, communications to and from the Office of Management and Budget, concerning the development of or otherwise about these updated EPA PAGs;
- ☐ All comments or communications, whether formal or informal, to and/or from individuals or representatives of private corporations or trade associations concerning the development of or otherwise about these updated EPA PAGs; and
- ☐ All internal communications, including e-mails, meeting notes and other records, from EPA staff members both inside and outside the Office of Radiation and Indoor Air concerning the development of or otherwise about these updated EPA PAGs.

The requested materials are limited to the time period of September 15, 2016 to the present. Nor are we requesting any communications posted on [regulations.gov](http://www.regulations.gov) in regard to the PAGs.

In a January 21, 2009 memo, President Barack Obama declared the following policy for the Executive Branch:

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To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

*1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.*

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The requested documents would help the public understand EPA’s decision-making process on this matter revealing the internal and external input that was considered in promulgating the revised PAGs. Moreover, the response to this request may provide important evidence of overlooked or underestimated problems that EPA has chosen to ignore.

*3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.*

The requested information concerns the depth of environmental planning and consideration of alternatives that EPA has undertaken in preparing an important official guidance for safeguarding public health in the event of a nuclear incident. Thus, this request concerns

whether EPA is meeting its mission of protecting the environment and public health with respect to radiation releases.

The general public has a keen interest in any factor bearing on emergency preparedness and protection of public health in the event of an emergency. In addition, as the underlying subject matter of this request concerns radiation exposure, the public has an acute interest in learning how acceptable public exposure levels in drinking water, food and soil are determined and what factors were considered – or not considered.

In addition, EPA also considers this information is of interest to the general public, as indicated by its request for public comments and by public statements to the effect that the PAGs are “an important science-based guideline that addresses safe levels for radiation exposure.”

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In addition, the requested materials will reflect whether divergent scientific opinions are being respected within EPA and whether genuine scientific dialogue is encouraged or is suppressed.

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Jeff Ruch  
Executive Director